

REMARKS

The present Amendment is in response to the Office Action mailed September 19, 2006, in the above identified application. Enclosed herewith is a Petition requesting a one month-extension of time for resetting the deadline for responding to the Office Action from December 19, 2006, to and including January 19, 2007.

In the present Amendment, Applicants have amended claims 1-2, 5-6 and 9, and have canceled claim 3. In addition, Applicants have canceled claims 11-19 (which were withdrawn from consideration by the Examiner) and added new claims 20-32. New claims 20-32 are fully supported by the originally filed specification and add no new matter.

The Examiner rejected claims 1-3 and 5-10 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,855,166 to Kohrs. Referring to FIGS. 6 and 17 thereof, Kohrs discloses an implant having linear grooves that are engageable by an insertion tool. In response to the rejection, Applicants respectfully assert that claim 1 is unanticipated by Kohrs because the reference neither discloses nor suggests an intervertebral spacer device with "the spacer body having a plurality of outer surfaces, the plurality of outer surfaces including a convexly curved upper surface extending between the leading end and the trailing end of the spacer body and a convexly curved lower surface extending between the leading end and the trailing end of the spacer body." Clearly, Kohrs does not teach or suggest convexly curved surfaces that extend between leading and trailing ends of an implant. In addition, claim 1 is unanticipated by Kohrs because the cited reference neither discloses nor suggests a "plurality of linear grooves including a first linear groove formed in the convexly curved upper surface and a second linear groove formed in the convexly curved lower surface, the first and second linear grooves being

parallel to one another." For the above reasons, claim 1 is unanticipated by Kohrs and is otherwise allowable. Claims 2 and 4-10 are unanticipated, *inter alia*, by virtue of their dependence from claim 1, which is unanticipated for the reasons set forth above.

The Examiner rejected claim 4 under 35 U.S.C. §103(a) as being unpatentable over Kohrs. In response, Applicants respectfully assert that claim 4 is patentable, *inter alia*, by virtue of its dependence from claim 1, which is patentable over Kohrs for the reasons set forth above.

New independent claim 20 is unanticipated by Kohrs because the reference neither discloses nor suggests an intervertebral spacer device having "a plurality of linear grooves having a rounded surface that extends continuously between the leading and trailing ends of the spacer body." As disclosed in paragraph [0042] of the present application, the rounded grooves facilitate sliding an insertion tool off of the intervertebral spacer device after the intervertebral spacer device has been positioned between vertebrae. Thus, the "linear grooves having a rounded surface" recitation provides a structural feature that is neither disclosed nor suggested by Kohrs. Claims 21-32 are unanticipated, *inter alia*, by virtue of their dependence from claim 20.

As it is believed that all of the rejections set forth in the Office Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicants' attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

Application No.: 10/715,965

Docket No.: SPINE 3.0-452 CONT

If there are any additional charges in connection with this requested Amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: January 11, 2007

Respectfully submitted,

By Michael J. Doherty

Michael J. Doherty

Registration No.: 40,592

LERNER, DAVID, LITTENBERG,

KRUMHOLZ & MENTLIK, LLP

600 South Avenue West

Westfield, New Jersey 07090

(908) 654-5000

Attorney for Applicants

698554_1.DOC